

# **EXHIBIT G**

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

VIRGINIA TOM and PETER TOM,  
individually and as Co-Guardians of L.C.S.T.,  
a minor,

Plaintiffs,

vs.

SEATTLE CHILDREN'S HOSPITAL, a non-profit Washington corporation,

Defendant.

NO.

COMPLAINT FOR DAMAGES

COME NOW the plaintiffs above-named, and for claims for relief against defendant allege as follows:

1. IDENTIFICATION OF PLAINTIFFS

1.1 Plaintiffs Virginia and Peter Tom are adults qualified to bring this action. They are the parents of their minor son L.C.S.T., DOB 06.02.2002. Together they reside in Whatcom County, Washington.

2. IDENTIFICATION OF DEFENDANT

2.1 Defendant Seattle Children's Hospital ("SCH") is a nonprofit corporation organized under the laws of the State of Washington authorized to do

1 business in the State of Washington. SCH is a "healthcare provider" within the  
2 meaning of RCW 7.70 and was duly authorized to provide medical care and services  
3 to L.C.S.T. There existed a fiduciary health care provider-patient relationship between  
4 them.

5 2.2 SCH provided medical care and treatment to him through its agents and  
6 employees, acting at all relevant times on behalf of defendant and within the scope of  
7 their employment or agency (whether actual or ostensible).

8 3. DATE OF OCCURRENCE

9 10 3.1 The care in question occurred in March 2018. This action is being  
11 commenced within the applicable statute of limitations.

12 4. VENUE

13 14 4.1 Defendant is located in King County, and the alleged negligence  
15 occurred in King County, Washington. Venue is proper in King County.

16 5. SUMMARY OF CLAIMS

17 18 5.1 Plaintiffs Virginia and Peter Tom, as Co-Guardians of their minor child  
19 L.C.S.T., bring this action on his behalf for injuries and damages damages  
hereinafter alleged due to the negligence of defendant.

20 21 5.2 Further, plaintiffs Virginia and Peter Tom bring this action on their  
22 own behalf pursuant to RCW 4.24.010, for harms they have personally suffered  
23 including, but not limited to grief, emotional distress, and loss of consortium.

24 6. NEGLIGENCE

25 26 6.1 As a health care provider, SCH owed to L.C.S.T. a duty to comply with  
the standard of care for one of the profession or class to which it belongs.

1           6.2     SCH had a duty to exercise the degree of skill, care, and learning  
2     expected of a reasonably prudent hospital in the State of Washington acting in the same  
3     or similar circumstances at the time of the care or treatment in question.

4           6.3     Specifically, SCH had a duty to L.C.S.T. to take reasonably prudent  
5     measures to prevent aspergillus from infecting L.C.S.T. in his operating room on March  
6     23, 2018.

7           6.4     SCH failed to take reasonably prudent measures to prevent aspergillus  
8     from infecting L.C.S.T. in his operating room on March 23, 2018.

9           6.5     Such failure constitutes a breach of the standard of care and is  
10     negligence.

11          6.6     SCH is further alleged to be independently liable under the doctrine of  
12     corporate negligence.

13                      7.     INFERENCE OF NEGLIGENCE

14          7.1     The manner of injury to plaintiff L.C.S.T. and the attending  
15     circumstances are of such a character which would warrant an inference that the  
16     injuries would not have occurred if ordinary care had been exercised by defendant.

17          7.2     The agency, instrumentality or thing which produced the injury was at  
18     all times under the control of defendant when the injury occurred; plaintiff L.C.S.T.  
19     lacked control to take action to avert the injury; and the injury would not ordinarily  
20     have occurred had the defendant exercised due care.

21                      8.     INFORMED CONSENT

22          8.1     Defendant failed to inform L.C.S.T.'s mother or father of material facts  
23     relating to his treatment, such failure resulted in injuries and damages as hereinafter

alleged, and such injuries and damages would not have occurred had they been fully informed and made aware of material facts relating to the treatment.

## 9. INJURIES RECEIVED

9.1 Defendant's failure to exercise such skill, care and learning and failure to exercise reasonable prudence was a direct and proximate cause of the injuries and damages to L.C.S.T., as hereinafter alleged and was a direct and proximate cause of his mother and father's claims of loss of consortium.

9.2 Specifically, defendant's negligence caused L.C.S.T.'s aspergillus meningitis and all harms resulting from it, including treatment and monitoring for it.

9.3 L.C.S.T.'s aspergillus meningitis has caused him to suffer personal injuries, including but not limited to pain and suffering, loss of enjoyment of life, and disability, both experienced and with reasonable probability to be experienced in the future.

9.4 Plaintiffs Virginia and Peter Tom have suffered personal injuries including but not limited to grief, emotional distress, and loss of consortium.

#### **10. EXPENSES INCURRED**

10.1 Plaintiffs have incurred medical expenses due to the negligence of the defendant. Plaintiffs will likely incur future medical expenses, and may also incur future economic damages, the extent of which will be proven at the time of trial.

## 11. STATUTORY PROVISIONS

11.1 Plaintiffs Virginia and Peter Tom, individually and as Co-guardians for  
their minor child L.C.S.T., do not elect to submit this dispute to arbitration pursuant to  
RCW 7.70A.020, and a declaration by their attorney is submitted herewith.

## 12. WAIVER OF PRIVILEGE

12.1 Waiver of the physician-patient privilege under RCW 5.60.060(4)(b) does not waive or release any other rights or privileges, including those related to the physician-patient relationship, other than the privilege set out in the above-cited statute.

WHEREFORE, plaintiffs pray for judgment against defendant in such amount as will be proven at the time of trial, together with such other and further relief as seems just and proper in the premises.

DATED: October 25<sup>th</sup>, 2019.

## CHEMNICK MOEN GREENSTREET

By:   
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Tyler Goldberg-Hoss, WSBA #41653  
Attorney for Plaintiffs